

Machinery and equipment used primarily (over 50% of the time) in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease is exempt from Retailers' Occupation Tax and Use Tax liability. See 86 Ill. Adm. Code 130.330. (This is a GIL.)

June 20, 2003

Dear Xxxxx:

This letter is in response to your letter dated January 29, 2003 and our telephone conversation. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120 subsections (b) and (c), which can be found at <http://www.revenue.state.il.us/Laws/regs/part1200/>.

In your letter, you have stated and made inquiry as follows:

Our Illinois client produces automobile tracking systems; I am uncertain if the following equipment purchased during 2002 will qualify for the Manufacturer's Purchase Credit:

1. Punch and shear: used to cut and punch holes in steel sheeting.
2. Welders: used to assemble product.
3. Paint sprayer: used to paint product.
4. Electric eye flame cutting machine: used for burning plate steel to make product unit pieces.
5. Clausing/Kalamazoo miter band saws: used to cut steel to proper length for product units.
6. Alzmetal power feed heavy duty drilling and tapping machine: used in making the conveyor unit of product.
7. Burden carriers: used as portable welders for assembling unit pieces into final product.
8. Crane: used to move production parts from assembly operation to assembly operation.
9. Fork truck: used to unload trucks and move production parts.

Please forward your findings to me as soon as possible. Should you have questions about the above matter, please call.

DEPARTMENT'S RESPONSE:

Under the Retailers' Occupation Tax Act, the manufacturing machinery and equipment exemption is available for machinery and equipment used primarily (over 50% of the time) in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease. See the enclosed copy of 86 Ill. Adm. Code 130.330. The exemption also extends to repair and replacement parts as long as the parts are incorporated into machinery and equipment that is exempt under the regulation. The manufacturing process is the production of any article of tangible personal

property, whether such article is a finished product or an article for use in the process of manufacturing or assembling a different article of tangible personal property, by procedures commonly regarded as manufacturing, processing, fabricating or refining which changes some existing material or materials into a material with a different form, use or name. These changes must result from the process in question and be substantial and significant. See subsection (b) of Section 130.330.

Please note the exemption does not apply to hand tools, coolants, lubricants, solvents, apparel, adhesives and similar supplies. See subsection (c)(3) of Section 130.330. However, pneumatic hand tools or electric powered hand tools used primarily in manufacturing or assembling may qualify for the exemption. If the punch and shear, welders, paint sprayer, flame cutting machine, miter band saws, power feed heavy duty drilling and tapping machines, and portable welders are used over 50% of the time in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease, those items would qualify for the manufacturing machinery and equipment exemption.

In regards to the crane, the use of machinery and equipment to convey, handle, or transport the tangible personal property to be sold within production stations on the production line or directly between such production stations or buildings within the same plant constitutes an exempt use under the manufacturing machinery and equipment exemption. However, the exemption does not extend to machinery or equipment used to store, convey, handle or transport materials or parts or sub-assemblies prior to their entrance into the production cycle. See subsection (d)(4)(C) of Section 130.330. Nor does the exemption extend to machinery or equipment used to store, convey, handle or transport finished tangible personal property after the completion of the production cycle. See subsection (d)(4)(D) of Section 130.330. The use of the fork truck described in your letter to unload trucks and move production parts does not appear to qualify for the manufacturing machinery and equipment exemption.

In addition to the exemption for manufacturing machinery and equipment, the State of Illinois provides a manufacturer's purchase credit (MPC) on the purchase of tangible personal property that qualifies for the manufacturing machinery and equipment exemption. See the enclosed copy of 86 Ill. Adm. Code 130.331. Purchasers of manufacturing machinery and equipment that qualifies for the manufacturing machinery and equipment exemption earn a credit in an amount equal to a fixed percentage of the tax which would have been incurred under the Use Tax or Service Use Tax. See subsection (a)(2) of Section 130.331. The credit is earned at the time qualifying manufacturing machinery and equipment or qualifying graphic arts machinery and equipment is purchased. See subsection (a)(3) of Section 130.331. The manufacturer must file an annual report of MPC earned for each calendar year no later than the last day of the sixth month following the calendar year in which the MPC is earned. See subsection (e)(1) of Section 130.331.

Manufacturers who have earned MPC on the purchase of qualifying manufacturing machinery and equipment can use that accumulated MPC to satisfy their Use Tax or Service Use Tax liability on the purchase of production related tangible personal property. Please note that the amount of MPC that can be applied to a purchase of production related tangible personal property is limited to the state rate of tax incurred on that property (6.25%). Any local taxes incurred on the purchase of production related tangible personal property remain the responsibility of the purchaser. The manufacturer must report MPC used to the Department by signing and filing an annual report of MPC used for each calendar year no later than the last day of the sixth month following the calendar year in which the MPC is used. See subsection (e)(1) of Section 130.331.

Even if the use of the fork truck referenced in your letter does not qualify for the manufacturing machinery and equipment exemption, the fork truck may qualify as production related tangible personal property for purposes of the use of MPC. Please be aware that the General Assembly has passed Senate Bill 842 that repeals the earning of MPC on and after July 1, 2003 and does not allow the use of MPC after September 30, 2003. The Governor has not signed the bill into law as of the mailing of this letter. You may wish to track the status of this legislation on the General Assembly's Internet website (www.legis.state.il.us).

I hope this information is helpful. The Department of Revenue maintains a website, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b) described above.

Very truly yours,

Terry D. Charlton
Associate Counsel

TDC:msk
Enc.